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FILED

Date 4/6/16 By Susan Saylor

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2016-48

13 **BUENA VISTA TERMITE; ROBERT**
14 **GONZALEZ, RALPH M. ALANIS**

ACCUSATION

15 9583 E. Slauson Ave.
16 Pico Rivera, CA 90660

17 Company Registration Certificate No. PR
18 6362, Branch 3

19 **AND**

20 **RALPH M ALANIS**

21 3218 N. Adelia Avenue
22 El Monte, CA 91733

23 Operator's License No. OPR 10667

24 **AND**

25 **FRANK RYAN WYKOFKA**

26 458 W. Arrow Highway, Suite A
27 San Dimas, CA 91773

28 Operator's License No. OPR 11710

Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
4 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
5 Affairs (Board).

6 **Buena Vista Termite/Robert Gonzalez**

7 2. On or about August 18, 2011, the Structural Pest Control Board issued Company
8 Registration Certificate Number PR 6362, Branch 3 to Buena Vista Termite; Robert Gonzalez
9 (President), Ralph M. Alanis (Qualifying Manager and Vice President). On September 24, 2014,
10 said certificate was suspended for failure to maintain a surety bond. On March 2, 2015, said
11 certificate was suspended for no Qualifying Manager. On January 12, 2016, said certificate was
12 suspended for failure to maintain general liability insurance.

13 **Ralph M. Alanis**

14 3. On or about December 17, 2002, the Structural Pest Control Board issued Operator's
15 License No. OPR 10667, inactive in Branch 3, to Ralph M. Alanis. On August 18, 2011, said
16 licensee became the Vice President, 30% shareholder, and Qualifying Manager of Buena Vista
17 Termite. On February 17, 2015, said licensee disassociated as Qualifying Manager of Buena
18 Vista Termite. Said license is currently in effect and renewed through June 30, 2017.

19 **Frank Ryan Wykofka**

20 4. On or about May 21, 2008, the Structural Pest Control Board issued Operator's
21 License No. OPR 11710, Branch 3, to Frank Ryan Wykofka (as an employee of Gaston Termite
22 Control Inc.). On March 11, 2015, said license was placed on inactive status. The Operator's
23 license is currently in effect and will expire on June 30, 2016, unless renewed.

24 5. On or about May 29, 2008, the Structural Pest Control Board issued Field
25 Representative's License No. FR 43171, Branch 2, to Frank Ryan Wykofka (as an employee of
26 Gaston Termite Control Inc.). Said license was cancelled on June 30, 2013.

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1 6. On or about September 19, 2000, the Structural Pest Control Board issued Field
2 Representative's License No. FR 32743, Branch 3, to Frank Ryan Wykofka (as an employee of
3 Gaston Termite Control Inc.). Said license was cancelled on May 21, 2008.

4 7. On or about January 14, 1998, the Structural Pest Control Board issued Applicator's
5 License No. RA 8597, Branches 2 and 3, to Frank Ryan Wykofka (as an employee of Gaston
6 Termite Control Inc.). Said license was cancelled on January 14, 2004.

7 **JURISDICTION AND STATUTORY PROVISIONS**

8 8. This Accusation is brought before the Structural Pest Control Board (Board),
9 Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11 9. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or
12 revoke a license when it finds that the holder, while a licensee or applicant, has committed any
13 acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a
14 civil penalty.

15 10. Section 8624 of the Code states:

16 "If the board suspends or revokes an operator's license and one or more
17 branch offices are registered under the name of the operator, the suspension or
revocation may be applied to each branch office.

18 If the operator is the qualifying manager, a partner, responsible officer, or
19 owner of a registered structural pest control company, the suspension or revocation
may be applied to the company registration.

20 The performance by any partnership, corporation, firm, association, or
21 registered company of any act or omission constituting a cause for disciplinary action,
likewise constitutes a cause for disciplinary action against any licensee who, at the
22 time the act or omission occurred, was the qualifying manager, a partner, responsible
officer, or owner of the partnership, corporation, firm, association, or registered
23 company whether or not he or she had knowledge of, or participated in, the prohibited
act or omission."

24 11. Section 8625 of the Code states:

25 "The lapsing or suspension of a license or company registration by
26 operation of law or by order or decision of the board or a court of law, or the
voluntary surrender of a license or company registration shall not deprive the board of
27 jurisdiction to proceed with any investigation of or action or disciplinary proceeding
against such licensee or company, or to render a decision suspending or revoking such
28 license or registration."

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12. Section 8652 of the Code states:

"Failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours."

13. Section 8516 of the Code states in pertinent part:

"(a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and on a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

- (1) The date of the inspection and the name of the licensed field representative or operator making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of any person who is a party in interest.
- (4) The address or location of the property.
- (5) A general description of the building or premises inspected.

1 (6) A foundation diagram or sketch of the structure or structures or
2 portions of the structure or structures inspected, indicating thereon the approximate
3 location of any infested or infected areas evident, and the parts of the structure where
4 conditions that would ordinarily subject those parts to attack by wood destroying pests
5 or organisms exist.

6 (7) Information regarding the substructure, foundation walls and
7 footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing
8 that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling
9 joists, and attic walls, or other parts subject to attack by wood destroying pests or
10 organisms. Conditions usually deemed likely to lead to infestation or infection, such
11 as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive
12 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be
13 reported.

14 (8) One of the following statements, as appropriate, printed in bold type:

15 (A) The exterior surface of the roof was not inspected. If you want the water
16 tightness of the roof determined, you should contact a roofing contractor who is
17 licensed by the Contractors' State License Board.

18 (B) The exterior surface of the roof was inspected to determine whether
19 or not wood destroying pests or organisms are present.

20 (9) Indication or description of any areas that are inaccessible or not
21 inspected with recommendation for further inspection if practicable. If, after the
22 report has been made in compliance with this section, authority is given later to open
23 inaccessible areas, a supplemental report on conditions in these areas shall be made.

24 (10) Recommendations for corrective measures.

25 (11) Information regarding the pesticide or pesticides to be used for their
26 control as set forth in subdivision (a) of Section 8538.

27 (12) The inspection report shall clearly disclose that if requested by the
28 person ordering the original report, a reinspection of the structure will be performed if
an estimate or bid for making repairs was given with the original inspection report, or
thereafter.

(13) The inspection report shall contain the following statement, printed
in boldface type:

NOTICE: Reports on this structure prepared by various registered
companies should list the same findings (i.e. termite infestations, termite damage,
fungus damage, etc.). However, recommendations to correct these findings may vary
from company to company. You have a right to seek a second opinion from another
company." An estimate or bid for repairs shall be given separately allocating the costs
to perform each and every recommendation for corrective measures as specified in
subdivision (c) with the original inspection report if the person who ordered the
original inspection report so requests, and if the registered company is regularly in the
business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or
thereafter, then the registered company shall not be required to perform a
reinspection.

A reinspection shall be an inspection of those items previously listed on

1 an original report to determine if the recommendations have been completed. Each
2 reinspection shall be reported on an original inspection report form and shall be
3 labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each
4 reinspection shall also identify the original report by date.

5 After four months from an original inspection, all inspections shall be
6 original inspections and not reinspections.

7 Any reinspection shall be performed for not more than the price of the
8 registered company's original inspection price and shall be completed within 10
9 working days after a reinspection has been ordered."

10 14. Section 8518 of the Code states:

11 "(a) When a registered company completes work under a contract, it shall
12 prepare, on a form prescribed by the board, a notice of work completed and not
13 completed, and shall furnish that notice to the owner of the property or the owner's
14 agent within 10 business days after completing the work. The notice shall include a
15 statement of the cost of the completed work and estimated cost of work not
16 completed.

17 (b) The address of each property inspected or upon which work was
18 completed shall be reported on a form prescribed by the board and shall be filed with
19 the board no later than 10 business days after completed work.

20 (c) A filing fee shall be assessed pursuant to Section 8674 for every
21 property upon which work is completed.

22 (d) Failure of a registered company to report and file with the board the
23 address of any property upon which work was completed pursuant to subdivision (b)
24 of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject
25 the registered company to a fine of not more than two thousand five hundred dollars
26 (\$2,500).

27 (e) The registered company shall retain for three years all original notices
28 of work completed, work not completed, and activity forms.

(f) Notices of work completed and not completed shall be made available
for inspection and reproduction to the executive officer of the board or his or her duly
authorized representative during business hours. Original notices of work completed
or not completed or copies thereof shall be submitted to the board upon request within
two business days."

15. Section 8639 of the Code states:

"Aiding or abetting an unlicensed individual or unregistered company to
evade the provisions of this chapter [the Structural Pest Control Act] or knowingly
combining or conspiring with an unlicensed individual or unregistered company, or
allowing one's license or company registration to be used by an unlicensed individual
or unregistered company, or acting as agent or partner or associate, or otherwise, of an
unlicensed individual or unregistered company to evade the provisions of this chapter
is a ground for disciplinary action."

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1 16. Section 8642 of the Code states that "[t]he commission of any grossly negligent or
2 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a
3 registered company is a ground for disciplinary action."

4 17. Section 8651 of the Code states:

5 "The performing or soliciting of structural pest control work, the
6 inspecting for structural or household pests, or the applying of any pesticide for the
7 purpose of eliminating, exterminating, controlling, or preventing structural or
8 household pests in branches of pest control other than those for which the operator,
9 field representative, or applicator is licensed or the company is registered is a ground
10 for disciplinary action."

11 18. Section 8610 of the Code provides, in pertinent part:

12 "(a) Every company that engages in the practice of structural pest control,
13 as a sole proprietorship, partnership, corporation, or other organization or any
14 combination thereof, shall be registered with the Structural Pest Control Board. Each
15 application for a company registration shall include the name of the company's owner
16 if it is a sole proprietorship, the names of the partners, if it is a partnership, or the
17 names of its officers and shareholders with 10 percent or more ownership interest, if it
18 is a corporation, and the address of the company's principal office in this state."

19 19. Section 8552 of the Code states:

20 "It is unlawful for any person to advertise or represent in any manner that
21 any pest control work, in whole or in part, has been done upon any structure, unless
22 the work has been performed by a company registered under this chapter."

23 20. Section 8505.17 of the Code provides, in pertinent part:

24 "(c) Registered structural pest control companies shall prepare and submit
25 to the county agricultural commissioner a monthly report of all pesticides used in that
26 county. The report shall be on a form approved by the Director of Pesticide
27 Regulation and shall contain the name and registration number of each pesticide and
28 the amount used. The report shall be submitted to the commissioner by the 10th day of
the month following the month of application and a copy shall be maintained by the
licensee for a period of three years after the report submission date. Each pesticide use
report or combination of use reports representing a registered structural pest control
company's total county pesticide use for the month shall require a pesticide use stamp
or stamp number issued by the board in the denomination fixed by the board in
accordance with Section 8674 as the pesticide use report filing fee. The board shall
provide for the sale of these stamps and stamp numbers and for the refund of moneys
paid for stamps and stamp numbers which are returned to it unused. When a
registered structural pest control company performs no pest control during a month in
a county in which it has given notice pursuant to Section 15204 of the Food and
Agricultural Code, the registered company shall submit a use report stating this fact to
the commissioner. A pesticide use stamp or stamp number is not required on negative
use reports."

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1 21. Section 8697 of the Code states:

2 “Each company registered under the provisions of this chapter shall
3 maintain a bond executed by an admitted surety insurer in the amount of twelve
4 thousand five hundred dollars (\$12,500). Another method of deposit, including a
certificate of deposit, or another undertaking shall not satisfy this requirement.”

5 22. Section 8618 of the Code states:

6 “Documents as specified by regulation must be maintained by all
7 registered companies for three years.”

8 **REGULATORY PROVISIONS**

9 23. California Code of Regulations, title 16, section 1996.3, states:

10 “(a) The address of each property inspected and/or upon which work was
11 completed shall be reported on a form prescribed by the Board and designated as the
12 WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.
13 5/09) at the end of this section. This form shall be prepared by each registered
company and shall comply with all of the requirements pursuant to Section 8516(b),
and 8518.

14 (b) The form shall contain the following information for each property
inspected and/or upon which work was completed.

15 (1) Company Name

16 (2) Company registration number

17 (3) Branch office registration number (when a branch office issues an
18 inspection report or notice of work completed

19 (4) Date of Activity

20 (5) Address of property inspected or upon which work was completed,
including zip code

21 (6) Activity Code

22 (7) License number of licensee performing the inspection

23 (c) Failure of a registered company to report and file with the Board the
24 address of any property inspected or upon which work was completed pursuant to
25 Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of
not more than two thousand five hundred dollars (\$ 2,500).”

26 24. California Code of Regulations, title 16, section 1918, states:

27 “‘Supervise’ as used in Business and Professions Code Sections 8506.2,
28 8610 and 8611 means the oversight, direction, control, and inspection of the daily
business of the company and its employees, and the availability to observe, assist, and

1 instruct company employees, as needed to secure full compliance with all laws and
2 regulations governing structural pest control.

3 In cases of ownership of more than one registered company by the same
4 sole owner, corporation or partnership where the qualifying manager or managers
5 cannot supervise each registered company because of the location of the companies,
6 the qualifying manager or managers may designate an individual or individuals
7 licensed as an operator or as a field representative in the branch or branches of
8 business being conducted to supervise the company. This designated supervisor or
9 supervisors must be under the direct supervision of the qualifying manager or
10 managers. Any such designation of supervisors does not relieve the qualifying
11 manager or managers of responsibility to supervise as required in sections 8506.2 and
12 8610.”

13 25. California Code of Regulations, title 16, section 1970, provides, in pertinent part:

14 “For the purpose of maintaining proper standards of safety and the
15 establishment of responsibility in handling the dangerous gases used in fumigation
16 and the pesticides used in other pest control operations, a registered company shall
17 compile and retain for a period of at least three years, a log for each fumigation job
18 and for each pesticide control operation in which a pesticide is used by the registered
19 company or the registered company's employee. If the fumigation is to be performed
20 by a fumigation subcontractor, the subcontractor shall complete the fumigation log
21 and forward a copy of the log to the primary contractor within ten business days.”

22 COST RECOVERY

23 26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

29 FACTUAL BACKGROUND

30 27. On July 1, 2014, Respondent Buena Vista Termite's \$4,000.00 bond was cancelled
31 for lack of payment. Effective September 24, 2014, Buena Vista Termite was placed on
32 suspension for failing to post a \$12,500 bond¹.

33 28. On February 17, 2015, the Board received written notice from Respondent Alanis
34 requesting that he be removed as Qualifying Manager of Buena Vista Termite. On February 17,

35 ¹ The suspension was mistakenly lifted on September 26, 2014, but was reinstated May 8, 2015.

1 2015, Respondent Alanis was removed as the Qualifying Manager of Buena Vista Termite
2 (Respondent Alanis remained a corporate officer of the company) and Buena Vista Termite was
3 suspended due to the loss of a Qualifying Manager. On March 2, 2015, the Board issued a cease
4 all work order for not having a qualifying manager as of February 17, 2015.

5 29. On March 11, 2015, Respondent Wykofka's license was placed on inactive status
6 because it was not associated with a registered company. On April 2, 2015, the Board received a
7 request from Respondent Gonzalez, seeking to change the Qualifying Manager of Buena Vista
8 Termite to Respondent Wykofka. The request could not be processed due to a Franchise Tax
9 Board suspension and inconsistencies in the corporate documents.

10 30. On April 23, 2015, Respondent Alanis notified the Board in writing that he would
11 like to have his name removed as an officer of Buena Vista Termite. His name was not removed
12 as an officer because Buena Vista Termite failed to re-register the company. On May 11, 2015,
13 Respondent Gonzalez emailed a copy of the \$12,500 bond to the Board. The bond submission
14 was rejected by the Board.

15 31. During the period of license suspension, Buena Vista Termite continued to perform
16 Wood Destroying Organism (WDO) activities. Respondents failed to report all of the WDO
17 activities to the Board and failed to sign and report 4 completion notices. Respondents also failed
18 to submit to the county agricultural commissioner a report of all pesticides for the months of
19 February 2015, March 2015, April 2015, May 2015, June 2015. On June 8, 2015, a Board
20 inspector traveled to Buena Vista Termite to discuss the violations with Respondents. During the
21 office inspection, the inspector discovered that Respondents failed to maintain records consistent
22 with the Code.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Failure to Submit Monthly Report of Pesticides Used)**

25 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

26 32. Respondents are subject to disciplinary action under section 8505.17, subdivision (c)
27 of the Code in that from February 2015, through June 2015, Respondents failed to submit
28 monthly reports of all pesticide use to the county agricultural commissioner. The conduct is

1 described in more particularity in paragraphs 27-31 above, inclusive and hereby incorporated by
2 reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Report WDO Activities)**

5 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

6 33. Respondents are subject to disciplinary action under section 8516, subdivision (b) and
7 section 8518 of the Code in conjunction with California Code of Regulations, title 16, section
8 1996.3 in that Respondents failed to report inspection and completion WDO activities to the
9 Board. The conduct is described in more particularity in paragraphs 27-31 above, inclusive and
10 hereby incorporated by reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Update/Change Company Registration with the Board)**

13 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

14 34. Respondents are subject to disciplinary action under section 8610, subdivision (a) of
15 the Code in that they failed to update/change the company registration with the Board. The
16 conduct is described in more particularity in paragraphs 27-31 above, inclusive and hereby
17 incorporated by reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Failure to Keep and Maintain Records)**

20 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

21 35. Respondents are subject to disciplinary action under section 8618 and section 8652 of
22 the Code, in conjunction with California Code of Regulations title 16, section 1970 in that they
23 failed to keep and maintain all records regarding structural pest control activities performed in the
24 past three years and failed to make them available to the executive officer of the Board (or her
25 duly authorized representative) during business hours. The conduct is described in more
26 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Aiding/Abetting or Knowing Combining or Conspiring with Unlicensed Individuals)**

3 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

4 36. Respondents are subject to disciplinary action under section 8639 of the Code in that
5 they aided or abetted unlicensed individuals to evade the provisions of this chapter or knowingly
6 combining or conspiring with an unlicensed individual. The conduct is described in more
7 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Gross Negligence or Fraudulent Act)**

10 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

11 37. Respondents are subject to disciplinary action under section 8642 of the Code in that
12 they committed fraudulent acts when they continued WDO activities, including inspection and
13 completion reports, while on suspension. The conduct is described in more particularity in
14 paragraphs 27-31 above, inclusive and hereby incorporated by reference.

15 38. Respondents are subject to disciplinary action under section 8642 of the Code in that
16 they were grossly negligent when they continued to issue inspection and completion reports, use
17 pesticides, report pesticide use for some projects, and fail to report pesticide use for other
18 projects, while on suspension. The conduct is described in more particularity in paragraphs 27-31
19 above, inclusive and hereby incorporated by reference.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Unlicensed Structural Pest Control Work)**

22 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

23 39. Respondents are subject to disciplinary action under section 8651 of the Code in that
24 they performed or solicited structural pest control work in branches of pest control other than
25 those for which the operator, field representative, or applicator is licensed, or the company is
26 registered. The conduct is described in more particularity in paragraphs 27-31 above, inclusive
27 and hereby incorporated by reference.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain and File a Bond)**

3 **(As to Respondents Buena Vista Termite and Robert Gonzalez)**

4 40. Respondents are subject to disciplinary action under section 8697 of the Code in that
5 they failed to maintain and file with the Board a bond executed by an admitted surety insurer in
6 the amount of twelve thousand five hundred dollars. The conduct is described in more
7 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Failure to Designate a Qualifying Manager)**

10 **(As to Respondent Ralph M. Alanis)**

11 41. Respondent is subject to disciplinary action under section 8610 of the Code, in
12 conjunction with California Code of Regulations title 16, section 1918 in that Respondent failed
13 to designate a qualifying manager to supervise the daily business of the company and be available
14 to supervise and assist all employees of the company. The conduct is described in more
15 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

16 **TENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Report WDO Activities)**

18 **(As to Respondent Ralph M. Alanis)**

19 42. Respondent is subject to disciplinary action under section 8516, subdivision (b) of the
20 Code, in conjunction with California Code of Regulations title 16, section 1996.3 in that
21 Respondent failed to report to the Board WDO activities. The conduct is described in more
22 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 **(Unlicensed Structural Pest Control Work)**

25 **(As to Respondent Ralph M. Alanis)**

26 43. Respondent is subject to disciplinary action under section 8651 of the Code in that
27 Respondent performed or solicited structural pest control work in branches of pest control other
28 than those for which the operator, field representative, or applicator is licensed, or the company is

1 registered. The conduct is described in more particularity in paragraphs 27-31 above, inclusive
2 and hereby incorporated by reference.

3 **TWELFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain and File a Bond)**

5 **(As to Respondent Ralph M. Alanis)**

6 44. Respondent is subject to disciplinary action under section 8697 of the Code in that
7 Respondent failed to maintain and file with the Board a bond executed by an admitted surety
8 insurer in the amount of twelve thousand five hundred dollars. The conduct is described in more
9 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

10 **THIRTEENTH CAUSE FOR DISCIPLINE**

11 **(Gross Negligence or Fraudulent Act)**

12 **(As to Respondent Ralph M. Alanis)**

13 45. Respondent is subject to disciplinary action under section 8642 of the Code in that he
14 committed fraudulent acts when they continued WDO activities, including inspection and
15 completion reports, while on suspension. The conduct is described in more particularity in
16 paragraphs 27-31 above, inclusive and hereby incorporated by reference.

17 46. Respondent is subject to disciplinary action under section 8642 of the Code in that he
18 was grossly negligent when he continued to issue inspection and completion reports, use
19 pesticides, and report pesticide use, while on suspension. The conduct is described in more
20 particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

22 **(Aiding/Abetting or Knowing Combining or Conspiring with Unlicensed Individuals)**

23 **(As to Respondent Frank Ryan Wykofka)**

24 47. Respondent is subject to disciplinary action under section 8552 of the Code in that
25 Respondent engaged in WDO activities during license suspension. The conduct is described in
26 more particularity in paragraphs 27-31 above, inclusive and hereby incorporated by reference.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Gross Negligence or Fraudulent Act)**

3 **(As to Respondent Frank Ryan Wykofka)**

4 48. Respondent is subject to disciplinary action under section 8642 of the Code in that he
5 committed grossly negligent or fraudulent acts when he performed WDO activities while his
6 license was inactive and the company was suspended, failed to report WDO activities to the
7 Board. The conduct is described in more particularity in paragraphs 27-31 above, inclusive and
8 hereby incorporated by reference.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

10 **(Unlicensed Structural Pest Control Work)**

11 **(As to Respondent Frank Ryan Wykofka)**

12 49. Respondent is subject to disciplinary action under section 8651 of the Code in that
13 Respondent's performed or solicited structural pest control work in branches of pest control other
14 than those for which the operator, field representative, or applicator is licensed, or the company is
15 registered. The conduct is described in more particularity in paragraphs 27-31 above, inclusive
16 and hereby incorporated by reference.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Structural Pest Control Board issue a decision:

4 1. Revoking or suspending Company Registration Certificate Number PR 6362, Branch
5 3, issued to Buena Vista Termite; Robert Gonzalez, Ralph M. Alanis;

6 2. Revoking or suspending Operator's License No. OPR 10667, Branch 3, issued to
7 Ralph M. Alanis;

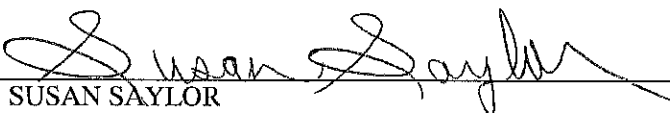
8 3. Revoking or suspending Operator's License No. OPR 11710, Branch 3, issued to
9 Frank Ryan Wykofka;

10 4. Prohibiting Respondents from serving as officers, directors, associates, partners,
11 qualifying managers, or responsible managing employees of any registered company during the
12 period that discipline is imposed on the licenses/certificates listed in paragraphs 1-3 (above);

13 5. Ordering Respondents to pay the Structural Pest Control Board the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3; and

16 6. Taking such other and further action as deemed necessary and proper.
17

18
19 DATED: 4/6/16


SUSAN SAYLOR

Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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